REMARKS

Claims 1-66 were pending in the application. New Claims 67 and 68 are presented herein. Claims 4, 26, and 48 are cancelled herein. Accordingly, Claims 1-3, 5-25, 27-47, and 49-68 are now pending in the application. Claims 1-3, 5-25, 27-47, and 49-66 are amended herein. Support for the amendments and new claims can be found throughout the written description, claims, and drawings as originally filed. Therefore, no new matter has been added. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

INTERVIEW SUMMARY

Applicants thank the Examiner for courtesy extended during the in-person Interview on May 6, 2009. Applicants' representative Jeffrey Chapp and Examiner Jason Levelle participated in the Interview. No exhibit or demonstration was conducted. The claims and references mentioned below were generally discussed. During the Interview, the Examiner agreed that Claim 8 distinguishes over the prior art of record subject to further consideration and/or search.

REJECTION UNDER 35 U.S.C. § 102

Claims 1, 4, 8-10, 17-18, 22-23, 36, 30-32, 39-40, 44-45, 48, 52-54, 61-62, and 66 stand rejected under 35 U.S.C. § 102(b)

as being anticipated by U.S. Pub. No. 2001/0044914 ("Nakano"). This rejection is respectfully traversed.

A. *Nakano does not show, teach, or suggest a counter and a resynchronization trigger, as recited in Claim 1.*

Claim 1 recites a resyncronization device for a network device. The resynchronization device includes a resynchronization trigger that asserts a resynchronization signal if a counter exceeds a predetermined threshold greater than 1. The counter counts faulty code groups. The faulty code groups include idle code groups that match idle code groups generated by a transmitter of a network device.

On page 2 of the Office Action, the Examiner refers to steps S916 and S917 of FIG. 8 of Nakano for disclosure of the claimed counter and resynchronization trigger.

Step S916 of Nakano discloses incrementing an invalid_count. The invalid_count is incremented when an idle code that a local device transmits is not received. The invalid_count is not incremented when the idle code that a local device transmits is received. In contrast, the counter of Claim 1 counts faulty code groups. The faulty code groups include idle code groups that match idle code groups generated by a transmitter of a network device (local network device).

During the Interview, the Examiner referred to step S914 instead of step S916 of Nakano for disclosure of the claimed

counter. Step S914 of Nakano discloses checking if an idle_flag is set to 1. The idle_flag is set to 1 when an idle code that a local device transmits is received. The idle_flag is set to zero when an idle code is not received. Setting an idle_flag to 1 is different than counting faulty code groups. Setting an idle_flag indicates that an idle code is received. Setting an idle_flag does not indicate the number of idle codes or idle code groups received.

Regardless of whether setting an idle_flag to 1 discloses a counter, Nakano does not disclose a resynchronization trigger that asserts a resynchronization signal if a counter exceeds a predetermined threshold greater than 1. Since the idle_flag of Nakano is not set to a value greater than 1, Nakano does not disclose the counter or the resynchronization trigger claimed.

Step S917 of Nakano merely discloses checking if the invalid_count is equal to 4, which is irrelevant. The invalid_count indicates the number of times an idle code that a local device transmits is not received, which is opposite that of the claimed counter. Thus, step S917 of Nakano does not disclose the resynchronization trigger, which asserts a resynchronization signal if the counter of Claim 1 exceeds a predetermined threshold.

For at least the above reasons, Nakano does not disclose each and every element of Claim 1.

The Court of Appeals for the Federal Circuit has recently stated: "We thus hold that unless a reference discloses within the four corners of the document not only all of the limitations claimed but also all of the limitations arranged or combined in the same way as recited in the claim, it cannot be said to prove prior invention of the thing claimed and, thus, cannot anticipate under 35 U.S.C. §102… [D]ifferences between the prior art reference and a claimed invention, however slight, invoke the question of obviousness, not anticipation." *Net MoneyIN Inc. v. VeriSign Inc.*, 88 USPQ2d 1751, 1759-1760 (Fed. Cir. 2008).

Therefore, Claim 1 is allowable for at least the above reasons.

B. Claims 2-3, 5-10, 23-25, 27-32, 45-47, 49-54 and 67

Independent claims 23 and 45 are allowable for at least similar reasons as Claim 1. Dependent claims 2-3, 5-10, 24-25, 27-32, 46-47, 49-54 and 67 ultimately depend from Claims 1, 23 and 45 and are therefore allowable for at least similar reasons.

C. Nakano does not show, teach, or suggest a resynchronization trigger, as recited in Claim 17.

Claim 17 recites resyncronization device for a network device. The resynchronization device includes a counter and a resynchronization trigger. The counter counts matching idle code groups. The resynchronization trigger asserts a resynchronization signal if the counter exceeds a predetermined threshold. The resynchronization trigger counts a number of times that the resynchronization signal is asserted.

On page 3 of the Office Action, the Examiner refers to step S917 of FIG. 8 of Nakano for disclosure of the claimed resynchronization trigger.

Steps S916 and S917 of Nakano are directed to the invalid_count, not to a trigger that counts the number of times that resynchronization is asserted. In Nakano, step S902 is performed when the invalid_count is equal to 4 and a timer count is greater than a predetermined value. Step S902 includes synchronization. The number of times that step S902 is performed in not counted in Nakano.

During the Interview, the Examiner admitted that Nakano does not disclose a counter that counts the number of times that resynchronization occurs.

For at least the above reasons, Nakano does not disclose each and every element of Claim 17. Therefore, Claim 17 is allowable for at least the above reasons.

D. Claims 18-22, 39-44, 61-66 and 68

Independent Claims 39 and 61 are allowable for at least similar reasons as Claim 17. Dependent claims 18-22, 40-44, 62-66 and 68 ultimately depend from Claims 17, 39 and 61 and are therefore allowable for at least similar reasons.

REJECTIONS UNDER 35 U.S.C. § 103

Claims 2-3, 11-12, 16, 24-25, 33-34, 38, 46-47, 55-56, and 60 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakano in view of U.S. Pat. No. 6,538,994 ("Horspool"). This rejection is respectfully traversed.

Claim 11 recites a false carrier resynchronization device that includes a counter and a resynchronization trigger. The counter counts false carriers that are detected by a false carrier detector during a predetermined period. The resynchronization trigger asserts a resynchronization signal if the counter exceeds a predetermined threshold during the predetermined period. The resynchronization trigger counts a number of times that the resynchronization signal is asserted.

A. *Nakano does not show, teach, or suggest a resynchronization trigger, as recited in Claim 11.*

Nakano does not disclose a resynchronization trigger that counts the number of times that resynchronization is performed. See above.

B. *Horspool does not show, teach, or suggest the resynchronization trigger of Claim 11.*

Horspool appears to disclose establishing a link when an error count is greater than a threshold. The error count appears to indicate the number of false carrier occurrences. The error count is not the number of times that a link is reestablished or the number of times that resychronization is performed. Thus, Horspool does not disclose the resynchronization trigger claimed.

C. *Claim 11 has limitations not taught by either reference.*

It is a longstanding rule that to establish a prima facie case of obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. *In re Royka*, 180 USPQ 143 (CCPA 1974). See MPEP § 2143.03. For at least the above reasons, Applicants respectfully assert that Claim 11 defines over the cited art.

D. *Claims 12-16, 33-38 and 55-60*

Independent Claims 33 and 55 are allowable for at least similar reasons as Claim 11. Claims 12-16, 34-38 and 56-60

ultimately depend from Claims 11, 33 and 55 are allowable for at least similar reasons.

> E. *Dependent Claims 5-7, 13-15, 19-21, 27-29, 35-37, 41-43, 49-51, 57-59 and 63-65*

Claims 5-7, 19-21, 27-29, 41-43, 49-51, and 63-65 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakano in view of IEEE St. 802.3ab-1999. Claims 13-15, 35-37, and 57-59 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakano in view of Horspool and IEEE St. 802.3ab-1999. These rejections are respectfully traversed

Applicants respectfully note that Claims 5-7, 13-15, 19-21, 27-29, 35-37, 41-43, 49-51, 57-59 and 63-65 depend directly or indirectly from Claims 1, 11, 17, 23, 33, 39, 45, 55 and 61 and are therefore allowable for at least similar reasons as Claims 1, 11, 17, 23, 33, 39, 45, 55 and 61. Applicants' position with respect to Claims 5-7, 13-15, 19-21, 27-29, 35-37, 41-43, 49-51, 57-59 and 63-65 should not be understood as implying that no other reasons for the patentability of Claims 5-7, 13-15, 19-21, 27-29, 35-37, 41-43, 49-51, 57-59 and 63-65 exist. Applicants reserve the right to address these other reasons at a later date if needed.
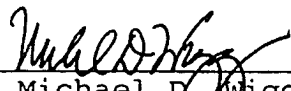
CONCLUSION

It is believed that all of the stated grounds of rejection have been properly addressed. For all of the reasons set forth above, Applicants submit that the application is in condition for allowance. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. By addressing particular positions taken by the Examiner in the above remarks, Applicants do not acquiesce to other positions that have not been explicitly addressed. In addition, Applicants' arguments for the patentability of a claim should not be understood as implying that no other reasons for the patentability of that claim exist.

If the Examiner believes that personal communication will allow any outstanding issues to be resolved, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: ___June 29, 2009___   By: _____
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